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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,351	01/16/2004	Michael C. Clark	68,002-441	7465

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EXAMINER

CRANE, DANIEL C

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/759,351	<b>Applicant(s)</b> CLARK, MICHAEL C.	
	<b>Examiner</b> Daniel C. Crane	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 and 5-9 is/are allowed.
- 6) ☒ Claim(s) 10-12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DRAWING AMENDMENTS**

In the Amendment of April 27, 2006, applicant proposes correction to Figures 8 and 9. However, no correction has been received. Therefore, Figures 8 and 9 remain as originally filed.

**REJECTION OF CLAIMS OVER PRIOR ART**

Claims 10-12 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gustavson (3,490,309). A recitation of the *intended use* of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is *capable* of performing the intended use, then it meets the claim. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963). Gustavson shows a guide mechanism that is constructed from a pivot link having a body 16 with a top end being rotatably coupled by a pin 14 and a bottom end being rotatably coupled by a pin 18. A pair of slots 15 intersects a pocket or interior of the body/tube 16 with a spring mechanism 17 positioned within the pocket. Gustavson's guide mechanism is provided with rod 14 that extends through the slots 15 with the pin retained in pivotal connection by a snap ring (unlabeled). Gustavson's pin 14 and snap ring connection is considered equivalent to a threaded pin with a bolt connection. Clearly, the skilled artisan having the benefit of Gustavson's pin 14 connection (snap ring) would have been disposed to utilize a threaded connection since such are considered to be selection choices based upon hardware availability. A flexible or resilient bar in place of a spring would also be an equivalent biasing mechanism to Gustavson's spring 17 since

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they function similarly. The shape of the pocket would not affect the operability of the spring within the pocket.

## RESPONSE TO APPLICANT'S COMMENTS

Contrary to applicant's arguments, Gustavson does teach a bolt that is selectively operable to travel between a first end portion and a second end portion of a pair of slots so as to permit compression and decompression of the spring mechanism. In this regard, applicant's attention is directed to column 1, lines 47-50, where

"The pin 14 extends through slots 15 in the rigid cylindrical tube 16, and forms a movable anchor pin for the spring 17 which is anchored to the tube 16 at its other end by the fixed anchor pin 18." (Emphasis added)

And, at lines 55-58, Gustavson discusses where,

"Rotation of the shaft 11 compresses the spring 17 which releases abruptly after dead centre is reached; consequently, the element 10 is movable with an over centre toggle action from one end position to the other." (Emphasis added)

Furthermore, applicant's attention is directed to column 2, lines 7-10, where

"When the shaft 11 and therefore the plate 13 are rotated so that the anchor pins 14, 18 of the spring 17 form a straight line with the shaft 11, the spring 17 is at maximum compression." (Emphasis added)

Thus, from the above quotes and clear evidence of the Gustavson's Figures, the pin 14 rides within the slots 15 and compress and decompress the spring 17 during operation of the guide mechanism.

Therefore, it is the examiner's position that the guide mechanism is shown by Gustavson regardless of how the claimed guide mechanism *may* be used. As commented above, if the prior

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art shows the structure than the prior art meets the claimed structure even though the prior art and the claimed structure have different uses.

### **INDICATION OF ALLOWABLE SUBJECT MATTER**

Claims 1-3 and 5-9 are allowed because the prior art does not show a guide mechanism as claimed *inter alia* that is positioned between a clamping member and a pivoting arm of a sheet bending brake.

### **FINAL OFFICE ACTION**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

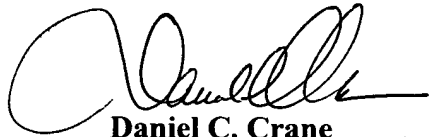
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## **INQUIRIES**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. Crane whose telephone number is **(571) 272-4516**. The examiner's office hours are 7:00AM-3:30PM, Monday through Friday.

Documents related to the instant application may be submitted by facsimile transmission at all times to Fax number 571) 273-8300. Applicant(s) is(are) reminded to clearly mark any transmission as "DRAFT" if it is not to be considered as an official response. The Examiner's Fax number is **(571) 273-4516**.

DCCrane  
December 3, 2006



**Daniel C. Crane**  
Primary Patent Examiner  
Group Art Unit 3725